

810-6-1-.125 Places of Amusement or Entertainment.

(1) The total receipts accruing from the operation of places of amusement or entertainment are subject to the sales tax. Taxable gross receipts from places of amusement shall include receipts from admissions, service charges, amusement devices, musical devices, amounts paid to participate or engage in specific activities, sales of food, drinks, souvenirs and other tangible personal property, and receipts from parking facilities when made available at the place of amusement for the convenience of patrons. Taxable gross receipts shall also include advertising receipts received from promotional sponsors where the sponsor purchases the right to give away general admission tickets or passes to a specific activity. Receipts received from third party advertisers relating to advertising space on billboards, scoreboards, fences, programs or tickets, or to radio or television time not in conjunction with the right to give away general admission tickets or passes would not be subject to sales tax. (State of Alabama v. Huntsville Baseball Club, Inc. and Birmingham Baseball Club, Inc. (Admin. Law Div. Docket No. S. 92-208 & S. 92-170, decided January 18, 1995))

(2) Sales tax shall be collected as a separate item from the consumer at the amusement rate of tax based on the price of admission to the place of amusement. Where the tax is not stated and collected separately, the total amount of the admission price shall be used as the measure of the tax. A deduction for the sales tax included in the price of admission will be allowed in computing the tax due whenever the business has permanently displayed a sign showing the admission price and the amount or amounts of tax due within the view of persons paying the admission, or where the tickets used in connection with the transactions have plainly printed on the face the admission price and, as a separate item, the amount of sales tax due. Likewise, sales tax shall not be backed-out of amounts received from amusement or musical devices where the business has failed to permanently display a sign showing the price and the amount of sales tax due. The federal amusement tax collected as a separate item shall not be included in the measure of the sales tax. (Section 40-23-26)

~~(3) — Places of amusement or entertainment include, but are not limited to, theaters, motion picture shows, auditoriums where lectures and concerts are given, amusement parks, fairgrounds, race tracks, baseball parks, football stadiums, swimming pools, street fairs, dance halls, cabarets, nightclubs, golf courses, skating rinks, Places of amusement or entertainment also include all places where the public is charged a fee for admission to see any kind of display or hear any kind of a program or to participate in sports, such as golf, and games of skill, such as billiards.~~

(3) Places of amusement or entertainment where the public is charged a fee to see, hear, attend, participate or engage in any kind of

display, program, activity, or event offered, include, but are not limited to, the following:

(a) Live or recorded performances, whether by individual ticket or by season tickets:

1. ballet performances;
2. circuses;
3. ice-skating shows;
4. motion pictures;
5. musical concerts;
6. opera performances;
7. outdoor theaters; and
8. theaters (movies and plays)

(b) Exhibitions or displays:

1. animal shows (contests, exhibitions);
2. antique shows;
3. arts and crafts, and art shows (fairs);
4. auto, boat or gun shows;
5. museums (that display art objects, antique autos, etc.); and
6. zoos

(c) Spectator sports:

1. automobile races;
2. drag strip operations;
3. horse shows (horse riding exhibitions);
4. motorcycle races;
5. rodeos;
6. sporting events such as football, baseball, basketball, hockey, and soccer games; and
7. wrestling or boxing;

(d) Participatory sports or games:

1. arcades where amusement devices such as pinball machines or video games are played;
2. bowling games;
3. go-cart races;
4. golf courses;
5. golf driving ranges;
6. miniature golf courses;
7. para-sail boats;

- 8. pool (billiard) games;
- 9. skate board tracks;
- 10. skating rinks;
- 11. swimming pools; and
- 12. water slides;

(e) Fairs or carnivals:

- 1. amusement parks;
- 2. carnivals;
- 3. fairs;
- 4. games of skill, at a circus, carnival, etc.
- 5. shooting galleries (ranges); and
- 6. side shows;

(f) Other:

- 1. boat rides or sight-seeing tours for pleasure (marine life viewing, sunset sailboat cruises, dinner cruises, etc.);
- 2. cover charges (for admission to dance halls, nightclubs, discos, etc. that provide dancing, music, or other entertainment); and
- 3. rides for pleasure in helicopters, hot-air balloons, trains, etc.

(4) With the exception of athletic events conducted by educational institutions other than primary or secondary schools, no sales tax is due on receipts accruing from admissions from places of amusement or entertainment conducted by the State of Alabama, a county or city of the State or any instrumentality thereof. (City of Anniston v. State of Alabama, 91 So.2d 211)

(5) Public primary and secondary schools ~~shall~~ **should** collect sales tax on admissions to athletic contests which they conduct; but, instead of remitting the ~~tax amounts so~~ collected to the Department of Revenue, **the tax shall be retained by the school and used** ~~each such school should retain the amounts which it has collected for use by said~~ **the** school for school purposes.

(6) Private or nonpublic primary and secondary schools shall collect and remit sales tax to the Department of Revenue on their gross receipts from athletic contests which they conduct. Effective July 1, 2006, pursuant to Act #2006-602, private or nonpublic primary and secondary schools shall continue to collect sales tax on admissions to athletic contests which they conduct; but, instead of remitting the tax collected to the Department of Revenue, the tax shall be retained by the school and used by the school for school purposes. (Section 40-23-2(2))

~~(7)(6)~~ The sales tax levied in Section 40-23-2(2) does not apply to admissions to any football playoff conducted by or under the auspices of the Alabama High School Athletic Association. Taxes on admissions to these football playoffs shall continue to be collected; but, rather than being remitted to the Department of Revenue, the taxes collected shall be retained by the collecting schools **and used** for school purposes. Effective July 1, 2006, pursuant to Act #2006-602, this exemption and retention of the sales tax collected shall apply to any athletic event conducted by or under the auspices of the Alabama High School Athletic Association.

~~(7) Private schools should collect and remit sales tax to the Department of Revenue on their gross receipts from athletic contests which they conduct. (Section 40-23-2(2))~~

(8) Sales tax is due at the general rate of tax on the gross proceeds of retail sales of food, drink, souvenirs and other tangible personal property sold at retail at places of amusement or entertainment, except for sales made by counties and cities of the State of Alabama as provided in Rule 810-6-2-.92.02 entitled State, County and City, Sales Made By; and public and nonpublic primary or secondary schools and groups affiliated with these schools such as parent-teacher organizations and booster clubs as provided in Rule 810-6-2-.88.04 entitled Exemption for Certain Sales by Elementary and Secondary Schools, School Sponsored Clubs and Organizations, and School Affiliated Groups. (Section 40-23-2(1))

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